

## **EXHIBIT 1**

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

Fair Isaac Corporation, a )  
Delaware corporation, ) File No. 16-cv-1054  
Plaintiff, ) (DTS)  
vs. )  
Federal Insurance Company, an ) Minneapolis, Minnesota  
Indiana corporation, and ACE ) December 13, 2022  
American Insurance Company, a ) 3:56 p.m.  
Pennsylvania corporation, )  
Defendants. )

BEFORE THE HONORABLE DAVID T. SCHULTZ  
UNITED STATES DISTRICT COURT MAGISTRATE JUDGE  
**(MOTION HEARING)**

**APPEARANCES:**

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transcript produced with computer.

1                   We absolutely agree that defendants' total revenue  
2 is relevant to FICO's pricing model, and so that will be  
3 considered if the jury is evaluating fair market value,  
4 actual damages. But it's a completely different thing to  
5 say, as FICO does, that in order to determine fair market  
6 value, the jury also needs to consider the specific profits  
7 that defendants earned from use of Blaze. That's different.  
8 That's a different inquiry. Not just total revenue of  
9 defendants, but actually how many profits were defendants  
10 earning from Blaze, and that's blurring the distinction  
11 between fair market value and disgorgement damages.

12                  THE COURT: But wait a second. How does that  
13 advance your argument? They're saying when it comes to the  
14 hypothetical negotiation, we get to tell the jury, you know,  
15 the fact that they're a 13 billion or whatever dollar a year  
16 organization is relevant to the license fee we would charge  
17 and it's relevant to their expectation of the license fee  
18 they would have to pay, so that figure -- that evidence  
19 about just total revenue is coming in for that purpose.

20                  And then on the disgorgement, 504(b) says you get  
21 to dump it into evidence. You know, here's the 13 billion;  
22 you sort out what's profit and what's related or not  
23 related.

24                  MS. GODESKY: Your Honor, there's a very  
25 different -- it's very different for FICO to say -- present

1                   THE COURT: Okay. Thank you.

2                   Ms. Godesky.

3                   MS. GODESKY: Godesky. May I make just four brief  
4 points, Your Honor?

5                   THE COURT: Yes. Godesky?

6                   MS. GODESKY: Godesky, yes.

7                   So four points, if I may. Number one, we agree  
8 they have every right to try their case on actual damages.  
9 They can put out their \$47 million figure and the evidence  
10 that they say supports it. No one is talking about limiting  
11 the evidence on that front. What we are talking about is  
12 there's a separate issue with numbers that dwarf that \$47  
13 million figure that the Court has decided the Court will not  
14 even decide. And so the anchoring effect, the possibility  
15 of split-the-baby considerations, right, all of those things  
16 that are as old as time, and *Uniloc* is not the only case  
17 that raises them, should absolutely factor into the decision  
18 here.

19                   Number two, I heard a lot of talk from counsel  
20 about this concept of intrinsic value, and they spend a lot  
21 of time in their papers talking about how the intrinsic  
22 value of Blaze is relevant to the hypothetical negotiations  
23 for the license fee, and I don't know where that came from.  
24 There is no authority cited in their papers for this idea  
25 that intrinsic value is relevant to calculating fair market